

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Case No. 2:17-cv-01297-MJP

Plaintiffs,

V.

DONALD J. TRUMP, in his official capacity as President of the United States, et al.,

**DECLARATION OF LINDSEY
MULLER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Defendants.

I, Lindsey Muller, declare as follows:

1. My name is Lindsey Muller. I am a plaintiff in the above-captioned action. I have actual knowledge of the matters stated in this declaration.

2. I am a 36-year-old woman, and I live in Pyeongtaek, South Korea with my wife, who is a veteran of the Marine Corps.

3. I am a Chief Warrant Officer Three in the U.S. Army and am currently stationed at U.S. Army Garrison Humphreys Army Base in Pyeongtaek, South Korea.

4. I enlisted in the U.S. Army in 2000. I have been serving for more than seventeen years.

5. I am a member of the Human Rights Campaign and the American Military Partner Association

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NEWMAN DU WORS LLP

2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

1 6. I chose the military as a career path for the opportunities that it can provide and in
 2 fact has provided me. I grew up in a very low-income household in Poplar Buff, Missouri where
 3 the only job opportunities were in agriculture and factories that did not provide much opportunity
 4 for upward mobility. I wanted specialized education and training, but college was not an option
 5 for me because of the expense. I also wanted to elevate myself economically and see more of the
 6 world. These goals, together with my strong sense of patriotism, led me to meet with a military
 7 recruiter and to enlist in the Army. I have stood shoulder to shoulder with fellow soldiers in
 8 combat and have been there to collect their remains after hostile engagements with enemy forces.
 9 I genuinely love and am proud of what I do.

10 7. My military occupation specialty is AH-64D Apache Longbow Attack Helicopter
 11 Pilot/Aviator within the Army and I currently perform duties as a Battalion Aviation Safety
 12 Officer. Currently, my duties involve providing combat support and combat service support to
 13 various echelons of commands up to the division level, including one headquarters support
 14 company, one distribution company, one Aviation Intermediate Maintenance company, and one
 15 signal company. I am the principle advisor to Company and Battalion level Commanders on all
 16 aviation and ground related safety matters. I protect more than 1,100 Soldiers and their families
 17 and over 300 vehicles and rolling stock valued at over \$70 million. I am responsible for
 18 managing the Battalion Commander's Safety Program and developing safety policies, safety
 19 goals, mission objectives, priorities, and integrating them into daily operations. I also assist
 20 Commanders with quarterly Command Safety Councils, develop risk assessments, and mitigate
 21 risks to ensure a safe and effective Aviation Support Battalion.

22 8. Before my current role, I performed duties as a Team Leader, Squad Leader,
 23 Army Recruiter, Instructor/Writer, Proponent Chief, Pilot in Command, and Air Mission
 24 Commander.

25 9. I served in Operation Iraqi Freedom, Operation Enduring Freedom, and multiple
 26 assignments to the Republic of Korea.

27 10. I have extensive training. My military and civilian education include the Army

1 Combat Communications Course, Expert Infantry Badge; Combat Infantry Badge; Master
 2 Breacher Demolition Course; Master Driver Trainer Course; Air Assault Badge; U.S. Army
 3 Recruiting School; Advanced Leaders Course; Army Family Team Building Instructor (Levels I,
 4 II, III); Survival, Evasion, Resistance & Escape School (SERE B – C/High Risk); U.S. Army
 5 Warrant Officer Course; Aviation WOBC, Aviation Life Support Equipment Course; AH-64D
 6 Longbow Apache Qualification Course; Aviation Safety Officer Course; Commander's Safety
 7 Course; Aircraft Mishap Investigation Course; Foundation Instructor Facilitator Course; Small
 8 Group Instructor Training Course; OSHA Standards for General Inspector; and Federal Aviation
 9 Administration Commercial Pilot.

10 11. The military has invested significant resources in training me. Based on my
 previous experience as a flight instructor, I understand that the military has invested
 12 approximately \$1.5 million in the training associated with my specific aircraft skillset alone. My
 skills make me a highly valued member of the military.

13 14. My performance has been consistently recognized throughout my time in military
 service. My awards and decorations include the Army Commendation Medal 2 oak leaf clusters
 15 (2 OLC), Army Achievement Medal (2 OLC), Valorous Unit Award, Meritorious Unit Award,
 16 Army Superior Unit Award, Army Good Conduct Medal (2nd award), National Defense Service
 17 Medal, Iraq Campaign Medal Campaign Star, Global War on Terrorism Expeditionary Medal,
 18 Global War on Terrorism Service Medal, Korea Defense Service Medal, Non-Commissioned
 19 Officer Professional Development Ribbon (2nd award), Army Service Ribbon, Overseas Service
 20 Ribbon (2nd award), , Expert Infantry Badge, Combat Infantry Badge, Army Aviator Badge, and
 21 Air Assault Badge. Additionally I served for a time as an Army Recruiter and earned every
 22 recognition achievable for that position including: three gold achievement stars for my Basic
 23 Recruiter Bade, the Gold Recruiter Bade with three sapphire achievement stars, the Army
 24 Recruiter Ring, and the Glenn. E. Morrell Medallion.

25 26. If I could, I would continue serving in the army as long as I am physically able to
 do so. I have served more than fifty percent of my life in military uniform, serving the citizens

1 of the United States of America and desperately wish to continue to do so.

2 14. I am transgender. I was assigned the sex of male at birth. I have known for more
3 than thirteen years that I am female.

4 15. I began to come to terms with my gender identity approximately six years ago. At
5 that time, I started to see a mental health professional who diagnosed me with gender dysphoria.

6 16. I began living openly as a woman in 2014.

7 17. In consultation with health care professionals, I have taken clinically appropriate
8 steps to transition, and I have further transition-related health care needs—including medically
9 necessary surgical treatment.

10 18. I have taken legal steps to transition. In May of 2015, I legally changed my first
11 name to Lindsey. At that time, I also changed my name and changed my gender marker to
12 female on my driver's license, passport, and social security records.

13 19. I came out in the military as transgender in 2014, my commander was incredibly
14 supportive. In fact, every person within my chain of command was supportive of my transition
15 and asked me to stay on in the military even though I had offered to resign, in light of the then-
16 existing bar against open service. Additionally, other enlisted personnel have been supportive of
17 me throughout my transition process. Being transgender has not negatively impacted the ability
18 for members of my unit to work together to accomplish our tasks. In fact serving openly has
19 actually had a positive effect allowing me to be open with my gender identity and inspire others
20 by leading by example.

21 20. Despite the fact that my command was supportive of my transition, I was
22 temporarily medically grounded, meaning that I could not pilot a military aircraft, because of my
23 transition. I was told that I was grounded for two reasons: (1) because I was on hormone
24 replacement therapy and (2) because I intended to transition. Under the guidance in 2014, I was
25 deemed administratively unfit to fly because I wanted to pursue transition.

26 21. Since then, I have pursued a waiver in order to perform full flight duties. I have
27 also been cleared by four aeromedical psychologists as competent to perform full flight duties.

1 Because I have not yet had surgeries I require as part of my transition, I take a testosterone
 2 blocker, which has been cited as a reason for my grounding. It is my understanding by the
 3 guidance provided by five flight surgeons that non-transgender people on hormone replacement
 4 therapy routinely receive waivers to qualify to fly.

5 22. If I were permitted to complete the course of treatment that is part of my
 6 transition plan, including required surgeries, then I would no longer be required to take
 7 spironolactone and would therefore no longer need of a waiver to fly.

8 23. The fact that I am transgender has not prevented me from doing my job as
 9 Aviation Safety Officer nor has my gender identity prevented others from doing their jobs in the
 10 military. I perform valuable services for the Army, and my performance of those duties
 11 strengthen our nation's military readiness. In fact, in a recent evaluation, my Brigade
 12 Commander noted that I am the best Battalion Safety Officer within the Brigade and am, in his
 13 view, one of the top 25% of all Warrant Officers within the Brigade. Within the review he
 14 recommended me for promotion.

15 24. Being able to serve openly as a transgender woman has made me a stronger asset
 16 to the military. I am able to function as a productive, healthy member of the military, and I am
 17 able to forge stronger relationships with others in my unit. Additionally, my openness as a senior
 18 leader has given other service members the confidence that they need to seek mental health care
 19 without fear of reprisal. When members who are in need of mental health service seek that care,
 20 that improves readiness because it reduces suicidality, reduces instability in the unit, and
 21 therefore, reduces the number of members who could be found unfit to serve based on untreated
 22 mental health issues.

23 25. On June 30, 2016, Secretary of Defense Ash Carter announced a new military-
 24 wide policy lifting the ban on transgender service. This change in policy permitted other people,
 25 similarly situated to me, to come out and serve openly as transgender members of the military
 26 without fear of forced separation based on their transgender status. When the ban was lifted, I
 27 felt a great weight lifted from my shoulders. I also considered the new inclusive policy from my

1 perspective as an officer; I immediately wanted to know what regulatory changes would be
 2 implemented to support the medical and legal needs of transgender service members. I believe
 3 that the policies and protocols implemented over the last year or so have provided support to
 4 both openly serving transgender members and to their commanding officers.

5 26. On October 1, 2016, the DoD issued instructions for implementing the new
 6 inclusive policy. Among the provisions were procedures for how transgender service members
 7 may transition, for medical treatment, and for changing a service member's gender marker in the
 8 Defense Enrollment Eligibility Reporting System (DEERS).

9 27. In February 2017, I changed my gender marker in DEERS. Since that time, I have
 10 followed female standards for dress, grooming, and physical fitness.

11 28. Over the last year or so, the DoD has been implementing the new inclusive policy,
 12 including through transgender-specific trainings. I have assisted in the provision of these
 13 trainings to fellow service members and to dozens of command teams. All told, I have reached
 14 hundreds of service members and I know that my voice, as coming from a Senior Chief Warrant
 15 Officer, has helped to alleviate concerns of members in command positions because I perceive
 16 issues that could affect military readiness through the lens of an officer.

17 29. On July 26, 2017, President Trump posted three tweets that indicated a shift in
 18 policy towards open service by transgender military members.

19 30. Since the tweeted policy change and the memorandum directing a ban on service
 20 by openly transgender service members were released, I have felt like the rug has been pulled out
 21 from under me and my anxiety has been extremely high. Knowing that my Commander-in-Chief
 22 and his military advisors view my service as a burden has utterly crippled my morale. It was a
 23 devastating blow that wounded me more than any combat injury could, because this
 24 discriminatory policy cuts to the core of *who I am*. I feel that my career is being destroyed by
 25 discrimination and prejudice.

26 31. It has been difficult for me to go to work thinking that I am viewed as an
 27 inconvenience, in spite of the recognition and awards I have received for my work. It is

1 challenging to perform to standards when I am afraid of losing my job at any moment. I cannot
 2 express how hurt I am by this policy—it is sending a public message denouncing thousands of
 3 loyal soldiers and dedicated professionals, who have proven their competence time and time
 4 again, many through multiple tours of duty throughout fifteen years of military conflict.

5 32. Because of the change in policy, I faced anxiety attacks, but seeking help for this
 6 issue places me in a difficult position of potentially facing a medical evaluation board regarding
 7 my fitness to serve as an aviator. Nonetheless, I requested anxiety medication from my doctor
 8 after the President posted the tweets because my interpretation was that I was being fired after
 9 more than seventeen years of honorable service. Additionally, I have a family and my healthcare,
 10 pension, and retirement benefits are now all in jeopardy.

11 33. My wife and I are struggling to come to grips with all the consequences of losing
 12 my career and benefits. My wife also is transgender as well as a Veteran of the Marine Corps.
 13 We are in constant fear that we will lose many protections that shield us from discrimination
 14 within the military system.

15 34. My wife and I both rely on TriCare for all of our medical needs. Upon my
 16 separation from the Army, we would lose access to our health care, which would be incredibly
 17 stressful.

18 35. My primary care physician has determined that it is medically necessary for my
 19 transition plan that I receive genital surgical treatment. In early July, my doctor was arranging
 20 the date for the surgery with a visiting military urologist. However, just days after President
 21 Trump's announcement of the change in policy through Twitter, all efforts to arrange the surgery
 22 were called off and following attempts to reschedule were denied.

23 36. Had the policy towards inclusive transgender service and provision of medically
 24 necessary transition-related care not been reversed, I would have received genital surgical
 25 treatment. After I receive that treatment, I will no longer need to take a testosterone blocker.
 26 Therefore, I would no longer need a waiver to fly and may return to my full flight duties. This
 27 would enhance my unit's military readiness because we would have additional attack aviation

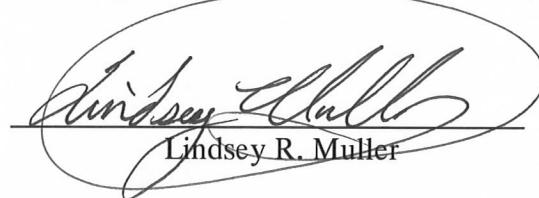
1 capacity.

2 37. Military medical staff have developed a treatment timeline for my transition,
3 which contemplates surgical treatment among other medical care. My commanding officer,
4 Lieutenant Colonel Jonathan Easley, has reviewed that timeline and stated in a memorandum
5 dated December 8, 2017 that he “[saw] no reason it should conflict with military necessity or
6 current unit requirements.” I am currently in the process of pursuing surgical treatment.

7 38. I have engaged in speech and conduct disclosing my transgender status and
8 expressing my gender identity, including by coming out to my chain of command and my fellow
9 service members, taking steps to transition, and living openly as a woman in military life. I want
10 to continue to be able engage in speech and conduct disclosing my transgender status and
11 expressing my gender identity.

12
13 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the
14 United States of America that the foregoing is true and correct.

15
16 DATED: January 23, 2017



Lindsey R. Muller

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on January 25, 2018.

27 Nov

Derek A. Newman, WSBA #26967
dn@newmanlaw.com
Newman Du Wors LLP
2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
(206) 274-2800

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